

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF NEW YORK

3
4 UNITED STATES OF AMERICA,)
5) CASE NO.: 14-CR-12
6 VS.)
7 ERIC J. FEIGHT,)
Defendant.)
8 _____)

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10 **TRANSCRIPT OF PROCEEDINGS**
BEFORE THE HONORABLE GARY L. SHARPE
11 WEDNESDAY, DECEMBER 16, 2015
ALBANY, NEW YORK
12

13 **FOR THE GOVERNMENT:**

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THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY

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1 (Court commenced at 9:01 AM.)

2 THE CLERK: The date is Wednesday, December 16,
3 2015, at 9:00 AM. In the matter of the United States of
4 America versus Eric J. Feight, case number 14-CR-12. We are
5 here for sentencing. Appearances for the record, please.

6 MR. GREEN: For the United States, Assistant
7 United States Attorney Stephen Green and Richard Belliss,
8 your Honor.

9 THE COURT: Good morning.

10 MR. MOSCHETTI: Pete Moschetti on behalf of
11 Mr. Feight. Good morning, Judge.

12 THE COURT: Good morning. Good morning,
13 Mr. Feight.

14 THE DEFENDANT: Good morning.

15 THE COURT: All right. We're here for purposes of
16 sentencing. The Court has received and reviewed the
17 sentencing submissions of the parties, has received and
18 reviewed the presentence report and has shared with the
19 parties the Court Exhibit, which, for my purposes, is a
20 summary of the Guideline findings that are contained in the
21 presentence report. In addition, it contains one special
22 condition of supervised release that is recommended to me,
23 which I will incorporate in the judgment, and since I've
24 supplied it in writing, I see no need to read it.

25 As the Circuit sets out, the way in which we need

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1 to proceed is to establish whether there are factual
2 objections to the presentence report, whether there are
3 objections to the scoring of the Guidelines, which I know
4 there are, and then whether or not the appropriate sentence
5 is a guideline sentence or some sentence involving a
6 variance.

7 Let me ask at the outset before I get to the
8 facts, the Government indicates in its sentencing submission
9 that the maximum term of supervised release is life. The
10 presentence report and the Court Exhibit reflect that this
11 is a range of one to three years. What's the Government say
12 about that?

13 MR. GREEN: Your Honor, initially, we had the
14 position that the range was to a maximum of life, but we
15 adopt the finding in the presentence report.

16 THE COURT: Okay, thank you. All right. Let's
17 turn then to whether there are any factual objections to the
18 presentence report. Government have any?

19 MR. GREEN: Not from the Government, your Honor.

20 THE COURT: Mr. Moschetti, does the defendant have
21 any?

22 MR. MOSCHETTI: Judge, as you know, there's that
23 18-page addendum to the sentencing report that Probation has
24 put in. We worked on this, as you know, a number of times,
25 I think there were two amendments to the presentence report.

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1 They put my objections in there, which were both objections
2 to some of the factual statements, but also an explanation
3 or maybe a counter explanation of how you would interpret
4 what was placed in there. I think the biggest objection
5 from me was that I thought there was an overwhelming amount
6 of information concerning Crawford and I understand that
7 because of the nature of the conspiracy charge and the proof
8 there would certainly have to be references to Crawford and
9 his conduct, but when you look at it, it's almost 95 percent
10 Crawford. I mean, there's many things in there I don't
11 think anyone is gonna dispute Eric Feight knew nothing
12 about, things that were going on in North Carolina, things
13 that were going on between Crawford and the undercover
14 agents that he had no idea about, before he was even brought
15 in and during that period. So, as an attorney, when I'm
16 looking at that that was my concern. I thought if you look
17 at that without really looking at it, it's just almost
18 overwhelming, so we tried to take the time to address those
19 paragraphs where we thought it was important that the Court
20 see it maybe in a different light. So that's really my
21 objection. I wouldn't go paragraph by paragraph, as I said
22 there are 18 pages, they were kind enough to add those to
23 the report, which I hope was helpful to the Court. But
24 that's my real factual objection.

25 THE COURT: Well, let me say, I don't think

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1 there's any need to resolve any of those issues. I think
2 they're amply covered by the addendum, your sentencing
3 submission, which I read, and, of course, I understand the
4 underlying facts here because I heard the trial insofar as
5 Mr. Crawford was concerned. So, I'm aware of the
6 distinctions between the conduct of the two and the issues
7 that are before me, so I don't think there's anything there
8 that needs resolution in order for me to pass sentence.

9 That does lead us, however, to the Sentencing
10 Guidelines, and I know there is an argument there about the
11 application of 3A1.4, the terrorism enhancement, and in
12 particular application note 4 and the impact of the
13 Circuit's decision in *Awan*, 607 Fed 3d 306, 2010. What do
14 the -- and of course, that has a significant impact on the
15 guideline scoring here. Absent 3A1.4, this is a level 30,
16 criminal history category I, with an advisory range of 97 to
17 121 months. With the enhancement, it becomes a 42, criminal
18 history category VI, with an advisory guideline range of 360
19 months to life.

20 What -- let me begin with the Government as to
21 whether they wish to address anything further as to the
22 argument about the application of the enhancement that's
23 contained in the presentence report.

24 MR. GREEN: Yes, your Honor. If I may, if I might
25 address that and clear the record from the Government's

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1 position. 3A1.4 provides for the application of that
2 enhancement in two different sets of circumstances: Where
3 the conduct, the offense conduct involves a federal crime of
4 terrorism, and where the offense conduct is intended to
5 promote a federal crime of terrorism. The Government's
6 position is both those prongs apply to the offense conduct
7 in this case. The offense conduct invokes the "involved in"
8 prong of the enhancement because the conduct here was a plot
9 to kill or injure innocent human targets with a radiation
10 device, and the specific intent of the two defendants was to
11 commit an enumerated terrorism offense. 2232b(b)(g)(5)
12 lists a number of offenses that qualify as terrorism
13 offenses for purposes of that enhancement, and the first two
14 of the offenses which Mr. Crawford has been convicted of and
15 the offense that Mr. Feight has pled guilty to involve
16 conduct that was specifically intended to commit a terrorism
17 offense -- in this case, providing material support to
18 terrorists. Secondly, the "intended to promote" prong
19 involves offense conduct where the intent was to assist or
20 enable or further the conduct of, in this case, another
21 person in carrying out an enumerated terrorism offense.

22 Here, Mr. Feight has pled guilty to an offense
23 that involves providing material support to terrorism and
24 that's precisely what he did in aiding Mr. Crawford in his
25 plot to obtain and then modify a radiation emitting device

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1 that was intended, with his knowledge and awareness from his
2 early involvement, to be directed at and to target specific
3 individuals, including specifically Muslims.

4 On that basis, we believe both prongs of the
5 enhancement apply and that it should be applied here
6 resulting in the Guidelines that are referenced and the
7 Court just found.

8 THE COURT: Thank you. Mr. Moschetti.

9 MR. MOSCHETTI: Yes, sir. With respect to
10 3A1.4(a), I laid this out in my report, I think you saw
11 it --

12 THE COURT: I have.

13 MR. MOSCHETTI: -- there are two components: One
14 is convicted of an offense that involved or was intended to
15 promote a federal crime of terrorism. We concede that by
16 the plea. I think the second prong, as I read U.S. verses
17 Awan, is it must be calculated to influence or affect the
18 conduct of government by intimidation, coercion or
19 retaliation against government conduct. That's how I read
20 the case. I think that's how it was laid out in the
21 presentence report and I think when you look at that, from
22 this defendant's perspective, that was not the intent, that
23 was not his intent, and there's nothing in the record of all
24 the material that we were provided, and it was a great deal
25 of material pertaining to Eric Feight and to Crawford that

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1 indicates that it was Eric's Feight intent that somehow this
2 was going to affect or was trying to intimidate or coerce or
3 somehow adversely affect government conduct. There was no
4 such nexus between his intent and the intent of what he
5 believed was being done and that aspect, and, therefore, I
6 don't see how that applies.

7 When you apply it, of course, it's so far off the
8 charts from the statutory 15 years and the level 30 analysis
9 that I believe is the correct analysis. So, in this case, I
10 think there's an absence of the second prong that
11 requires -- that Awan requires, indicating that the intent
12 was to affect government conduct. I know that the
13 Government talks about and puts forth some of the
14 discussions in the diner, but when you start to dissect what
15 happened, there's no mention during that period of time --
16 and I speak to that -- of any discussion about any targets,
17 and that looms rather large for us, I think. But that being
18 said, I think clearly, in light of the fact there's no such
19 evidence of an intent to influence government conduct, that
20 it is not applicable and we should be at level 30.

21 THE COURT: Thank you.

22 MR. GREEN: May I, just briefly, your Honor? Our
23 position is that Mr. Feight's own words evidence an intent
24 to retaliate against government policies with which he and
25 Mr. Crawford disagreed. Some of those statements are

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1 included in paragraph 5 of Mr. Feight's plea agreement and
2 that conduct and those statements are summarized in the
3 presentence report, paragraph 208.

4 THE COURT: Well, I've reviewed these arguments,
5 they're set out in detail in the parties' submissions and,
6 of course, the resolution of those arguments is reflected in
7 the scoring by Probation in the presentence report. I agree
8 with Probation, I agree with the Government that the
9 circumstantial conclusions, both from a conspiratorial
10 standpoint and otherwise, are sufficient to support the
11 application and, therefore, I believe under Awan this is
12 correctly scored, which elevates the conduct to a level 42,
13 criminal history category VI, with an advisory Guideline
14 range of 360 months to life. So I resolve that legal issue
15 in favor of the presentence report and the Government.

16 That leads us, then, to the third area, which is
17 whether or not -- and these are the same arguments that
18 apply here and this is the most cogent place, in my view,
19 for the discussion -- as to whether or not the advisory
20 Guideline range is the appropriate sentence here or whether
21 some variance from that is required.

22 The way in which I intend to proceed on this
23 issue is I want to hear from the Government, I'll then give
24 Mr. Moschetti an opportunity to be heard and then, of
25 course, Mr. Feight has the last word.

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1 From the Government, I want to hear what the
2 Government's view is of the view of the evidence reflected
3 in the defendant's sentencing submission and in the
4 presentence report, and I also want to hear from the
5 Government, to the extent it's able to, what the agents'
6 view is of the underlying evidence in light of the fact that
7 they're the ones that spent the time with Mr. Feight and had
8 the conversations with him.

9 This is a bizarre case, bizarre. It's been
10 bizarre from beginning to end. That doesn't detract from
11 the fact that under the Guidelines, this kind of conduct
12 generically is scored right where it belongs. When you're
13 targeting a particular group, regardless of who it is, with
14 a weapon of mass destruction intending to kill 'em, it calls
15 for enhanced, heightened penalties, and I don't have any
16 problem with the way in which the Guidelines are scored.
17 But I want to know what the Government's view is about this
18 defendant's specific conduct in that connection because
19 that's the issue that's before me. Is a variance warranted
20 here or not? Go ahead.

21 MR. GREEN: Your Honor, as the Court has just
22 noted, the conduct of Mr. Feight and the conduct of the
23 other defendant, Mr. Crawford, are certainly disparate and
24 distinguishable. Mr. Feight's role was having been
25 recruited by Mr. Crawford to assist Mr. Crawford, not in

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1 acquiring the device, but in modifying the device so that it
2 would be more useable for a number of reasons by the
3 defendant and anyone else who would use it. Specifically,
4 Mr. Feight acknowledges in his plea agreement, in
5 paragraph 5, that his role was to listen to the plans and
6 learn about the device, the X-ray radiation emitting device
7 that the defendants planned to acquire, to understand how it
8 worked and then to use his special skills and expertise in
9 industrial automation to design, build and deliver to
10 Mr. Crawford a working remote initiation device that would
11 allow the X-ray radiation system to be operated from a
12 distance. To Mr. Crawford's view and in discussions in
13 which Mr. Feight participated, that device, that remote
14 initiation device that he was specifically tasked and
15 accepted the challenge to do, the purpose of that device was
16 two-fold: One, it would allow the operators of the device
17 to turn it on and turn it off from a distance and, thus,
18 avoiding danger to themselves by any scatter of radiation
19 that perhaps would be occurring when they turned the device
20 on in a location or in a van, as they discussed using, where
21 they were not protected or shielded from any scatter of
22 radiation or any other radiation emitted by the device.

23 The second purpose for that device, as understood
24 by Mr. Feight and acknowledged in his conversations with
25 Mr. Crawford and the undercovers on the November 14th

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1 meeting at the coffee shop, was to allow them some
2 separation. If the Court recalls that exhibit from the
3 Crawford trial and again from the parties' submissions in
4 Mr. Feight's case here, the discussion from the very
5 outset at that November 14, 2012, meeting, particularly on
6 Mr. Feight's part, was to avoid detection, to distance
7 himself from the actual operations, in his words, to provide
8 plausible deniability. That conversation, the initial parts
9 of it, go at great length in describing how they can be
10 removed from it, how they cannot have their fingerprints on
11 it, how they cannot necessarily be next to the device if
12 discovered by law enforcement. So for the protection of
13 individual safety, enabling the device to be used repeatedly
14 and safely by the operators and also to remove themselves
15 from the danger of being caught by the police or detection
16 of what they were doing, that device was, in Mr. Crawford's
17 view and shared by Mr. Feight in those conversations, an
18 important component to modify the radiation unit so it could
19 be used in that fashion to target unsuspecting, innocent
20 human beings.

21 Mr. Feight was told what the task was, he
22 explains, as he acknowledges in paragraph 5 of his plea
23 agreement, that the whole purpose was to target people who
24 they found to be undesirable. He says in his -- paragraph 5
25 of his plea agreement he understood that to mean Muslims.

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1 And rather than reject the offer, as other people had
2 rejected Mr. Crawford's solicitations, Mr. Feight accepted
3 it, accepted that solicitation. He not only accepted it, he
4 had an extensive discussion, most of which is laid out in
5 that November 14th meeting, where he talks about the various
6 ways to do it, about how he can be removed from it by not
7 necessarily participating directly in the obtaining of the
8 parts to do it, and then discusses various ways in which the
9 device could be built and designed. And at the end of that,
10 at the end of that discussion, he proposes how he would
11 suggest to do it, provides a cost estimate for exactly how
12 it would be put together and what those parts would cost him
13 to buy, and then proposes a plan about how to put it
14 together. During that meeting, he was shown an operations'
15 manual for the device provided by the participants, he
16 examined it, he described the technology as old, perhaps
17 from the 1950s, old military style, and said that it would
18 not be difficult to integrate his intended remote control
19 unit to the control panel of the device.

20 So, in Mr. Crawford's view, it was an important
21 and essential part of the X-ray device that he would intend
22 to use both to keep himself safe and also to allow the
23 parties to avoid detection by law enforcement. So, the
24 agents' view, and I think the prosecutors share the view,
25 that Mr. Feight's role, he was certainly free to turn it

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1 down, he was certainly free to say I don't think I want to
2 do this, but he didn't do that, he accepted the task. And
3 not only that, he commented that the use of a radiation
4 device to accomplish this task of killing unsuspecting
5 targets, specifically Muslims, was very smart because there
6 would not be an immediate sensation by the victim, there
7 would be no sound, there would be no blood, there would be
8 no immediate medical effects, but they would linger and that
9 would occur sometime later. He described the plan as being
10 very smart and he described his ability to design, build and
11 deliver to Mr. Crawford a working remote initiation unit as
12 easy and something that he could do.

13 At the end of that meeting, Mr. Feight doesn't go
14 to law enforcement, Mr. Feight doesn't go home and then call
15 back and say I really don't know if I want to do this, he
16 doesn't withdraw. To the contrary. They discuss going to
17 have shots and beers at a bar down the street with these
18 individuals who he now claims in his sentencing memo he was
19 terrified of and thought threatened his security and his
20 family security. They went down the street, had shots of
21 Jamesons, had beers, Guinesses, and these people who Mr.
22 Feight claimed to be afraid of, he divulged to them his
23 cellphone number, his e-mail address, he discussed his wife
24 and his three daughters, he discussed his residences, his
25 employment history, his company, and joked with them about

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1 several topics. But, then, again, in parting, agreed to
2 toast to this organization of theirs, the conspiracy, which
3 they referred to as "the guild" and then went about, over
4 the succeeding weeks and months, providing Mr. Crawford with
5 parts lists of things he needed to build the remote device,
6 he would get them, have conversations with Mr. Crawford, I
7 think these are all set out, many of them, in the
8 presentence report and the complaint and Court has seen
9 them, and went on to, over the course of those following
10 months, build this device, test it, deliver it to
11 Mr. Crawford, telling him that it was a working device
12 and twice provided specific instructions to Mr. Crawford
13 on how Mr. Crawford could then take the remote units that
14 Mr. Feight had designed and built and integrate them into
15 the control panel of the radiation device and how that would
16 then enable the device to be used as Mr. Crawford intended,
17 from a distance up to a quarter of a mile, and he
18 represented to Mr. Crawford and to the undercovers that the
19 device he delivered would be operational.

20 The -- it is true and the Government acknowledges
21 in its sentencing memorandum that almost immediately upon
22 his arrest, Mr. Feight agreed to be interviewed by law
23 enforcement. He sat down with two members of law
24 enforcement and in law enforcement's view and in our view
25 was, in most respects, candid about his role and his

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1 activities. He discussed his work with Mr. Crawford in
2 designing and building the device. He discussed and
3 admitted his knowledge of what the device, the radiation
4 device was intended to do. He discussed his understanding
5 of what the remote device -- what its purpose was and what
6 advantages it provided in modifying the radiation device.
7 Sometime later, actually on January 22nd of 2014, he signed
8 a written plea agreement, and a hearing in this courtroom in
9 front of your honor, he sat here and told you that he
10 acknowledged as true every factual statement set forth in
11 paragraph 5 of that plea agreement and admitted each of them
12 to this Court. And based on that, his prompt decision to be
13 candid and be interviewed by law enforcement, his offer to
14 cooperate with the Government, and our assessment of his,
15 for the most part, candor in providing information to the
16 Government, Mr. Feight was offered the opportunity to plead
17 to an offense substantially different from those with which
18 Mr. Crawford was ultimately charged.

19 THE COURT: I concur with that. But is it
20 substantially different in terms of the Guideline score that
21 flows from that?

22 MR. GREEN: Well, in terms of the Guideline score,
23 no, your Honor, but the offer was made with the awareness
24 that the statute to which Mr. Feight was offered the
25 opportunity to plead guilty carries a statutory cap that

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1 makes a fundamental difference and does substantially alter
2 what the Guideline sentence ordinarily and otherwise would
3 be.

4 THE COURT: Um-hum.

5 MR. GREEN: The conduct which Mr. Feight engaged
6 in, as I said earlier, is distinct and distortedly different
7 from Mr. Crawford's. Over his awareness of the plot, his
8 awareness that the intent was to kill innocent human targets
9 based on their religion, his participation in it over an
10 extended period of time without going to law enforcement,
11 his delivery to Mr. Crawford of a working operational device
12 that he said could easily be integrated into the system all
13 make for a very serious offense.

14 The Guidelines, we believe, accurately reflect the
15 seriousness of that offense and his decision to accept the
16 Government's offer of a statute that put a statutory cap
17 that fundamentally distinguishes his possible sentence from
18 that of Mr. Crawford, we believe appropriately, and
19 adequately reflects the difference in the behavior of the
20 two.

21 THE COURT: Thank you. Mr. Moschetti, please.

22 MR. MOSCHETTI: Maybe, Judge, if it's all right,
23 I'll go through the 3553(a) factors that I think you should
24 consider when reaching a decision as to the proper sentence,
25 also addressing some of the things the Government said.

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1 The background and character of the individual
2 before you is something I know the Court takes into
3 consideration. 3553 indicates that. So, we know you have a
4 person that's a 57-year-old person; he and his wife, Connie,
5 were married in 1983, they have three girls: Elizabeth, who
6 came from Germany and is here today; Rachael, who came from
7 New Hampshire and is here today; and Emily, who came from
8 North Carolina and is here today. The girls have done well.
9 Unfortunately, this has been a two-and-a-half year process
10 where it's had an adverse effect on them. That goes on
11 Eric's shoulders, there's no question about that, that's his
12 responsibility he put himself in. Emily, who is a very good
13 student, while Eric was there and had a steady hand, she
14 excelled; since then, unfortunately, she has dropped out --
15 and I think there's a direct correlation -- she dropped out
16 and left home, that's high school, without him being there.

17 You saw the letters from the girls. I think it
18 would be fair to say they were quite poignant and I think
19 quite important to describe the individual who the
20 Government now asks you to send to jail for 15 years. He
21 was raised by his maternal grandparents. The history that's
22 in front of you shows all through his life he's done
23 exceedingly well. Went to college in Florida, went to the
24 State University of Florida, missed graduating by a
25 semester, went on to work, and everything he's done he's

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1 been successful in. Letters we submitted I think all
2 address that. Tremendous work ethic, honest, reliable.
3 It's a theme, it's a continual theme, that we didn't see
4 anyone else bring anything that would indicate otherwise,
5 because I think it's true and it resonates.

6 He was a hands-on dad, the girls talked about
7 that; he was involved in their school, with their homework,
8 with their after-school activities. When Mrs. Feight was
9 dealing with health issues, he was cooking them dinner
10 almost every night. And when you read the quotes from the
11 girls, how during their lifetime they have never seen their
12 father or hear their father say anything that was advocating
13 violence, that was violent, that indicated any hatred or
14 dislike of anyone. I think Emily said what she was taught
15 throughout her life by her father was that she should treat
16 everyone equal. I mean these aren't made up things; it's
17 the fabric of the person that is here before you.

18 We know that he was involved in charity most of
19 his adult life. He was a volunteer for the Boy Scouts, and
20 he's been a member of the Elks forever. And you got letters
21 from people from the Elks and from people who were
22 constantly involved, not for his own good, but for the good
23 of others in providing food and money for those that were
24 disadvantaged that needed it, both during the year and every
25 Christmas. He raised money for students that needed tuition

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1 that couldn't afford to go to school. He got Emily involved
2 in the charity work, his daughter.

3 And so if you're thinking about what kind of
4 person this is, you're thinking he's trying to show his
5 children this is the way to live, this is what you should
6 do. I think Rachael said he was the most honest and
7 kind-hearted person she's ever met. Now these are his
8 children, I understand that, and they see that this is their
9 dad, but there were letters from others in the community
10 that said the same thing, although there was one individual,
11 I think you saw, who said this was the nicest, gentlest
12 person, but also the most naive person. And I said in the
13 sentencing memorandum that's probably why he's sitting here,
14 unfortunately.

15 So, that's some of his background. I have to say
16 certainly there's not any indication that he had a history
17 of being a zealot or being involved in some type of radical
18 group. There is no evidence of that and the Government
19 hasn't produced anything of that. We had wiretaps, searches
20 of his home, they went through all his computers, I'm sure
21 they interviewed everyone that was around him and dealt with
22 him. Not one bit of evidence that he belonged to a group
23 that advocated the overthrow of government or was
24 terroristic in nature, that he held those views, that he
25 belonged to some associations. And you know there's a

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1 contrast certainly between the defendant Crawford and Eric
2 Feight that's pretty amazing and I know that you sat through
3 the trial and you have seen and heard things. But with
4 respect to Eric, the things that Crawford was involved in
5 Eric Feight never had anything to do with. They've never
6 owned a gun.

7 He never knew, and this I think there is no
8 dispute, he never knew that Crawford -- Crawford kept hidden
9 from him that Crawford was a member of the KKK and he didn't
10 know that the undercover agents or the investors were
11 supposedly involved with the KKK until January of 2014 and
12 not at the time that they met at the diner. And what
13 happened in January of 2014 simply was, and you can see this
14 when you listen to the tapes or read the transcripts of the
15 tapes, because Eric was not cooperating with them, because
16 he was putting them off, Crawford was getting frustrated and
17 angry. I'm not -- I don't have to -- we're not making this
18 up, it's part of the proof that they provided to us, and
19 it's part of the material that's in the presentence report
20 and may even be part of the material that you heard during
21 trial. I did not sit through the entire trial, so I can't
22 comment on that. But Crawford goes to Eric and says I gotta
23 tell you you can't mess with these guys, they're a part of
24 the KKK. That's the first time that he had heard that. So
25 it's not as if he knew all this information beforehand.

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1 Most of this came either during or after. He didn't find
2 out that Crawford was a member of the KKK until the agents
3 who arrested them I think told him that and he read it in
4 the paperwork that was submitted. So, I think that's pretty
5 significant when we're talking about the individual who is
6 before you.

7 If you take what the Government wants you to
8 believe, that he was a true believer, a zealot, was into
9 this plan, tell me why it took him six months to deliver a
10 simple device that they concede could be made in a week, all
11 right? Why? If he is so gung ho with this, if he wants to
12 do this, if he's involved in the way they're trying to lead
13 us to believe, then why did it take that long period of
14 time? I mean, they concede someone, and it didn't have to
15 be that sophisticated, but certainly someone with his
16 background could have produced what they wanted within a
17 week, all right, and would have, if you take their argument.
18 If he had been a zealot, if he had been so into this, if he
19 had wanted this to be accomplished, what would he have done?
20 He would have gotten the parts together, created these two
21 radios to communicate with each other, delivered it to them
22 and done what the most important part would be, is you have
23 to integrate -- and this is beyond me, the science hood, but
24 I think in it's simplest form you have to integrate the two
25 radios, a simple concept, the two radios communicate to each

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1 other, that's the test that they did in May of 2013. Yeah,
2 they can communicate with each other; it doesn't mean that
3 it can operate any machine, let alone this X-ray machine.
4 So what you would have to do to make those two radios
5 anything but useless is to integrate them into the machine
6 that they were producing for Crawford. And he refused to do
7 that, absolutely refused to do that.

8 So, I think it's one thing to say yes, he was a
9 zealot, he was part of this group, he wanted to do this.
10 But if you look at the facts in which we should all make our
11 decisions here, the facts indicate otherwise. And I think
12 the Government has conceded that, ya know, there was delay
13 after delay after delay. When you read the tapes, you can
14 see them all, the agents are pressing, the investors are
15 pressing Crawford about what's going on with Eric Feight.
16 Crawford is telling them he's totally frustrated, he's
17 shocked, he's angry, he wants to groom someone else, all
18 right, because it's just delay after delay after delay. And
19 when you read each section of the report that lays this out,
20 it becomes clear. When you think about it, when you just
21 read through it, oh, you know, well it took longer than
22 you'd expect, but that's not the case and no one is saying
23 that. There's no question there.

24 At the time of his arrest, the agents have said he
25 was honest, straightforward, cooperative, he helped them in

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1 the execution of their search warrants because they were
2 looking for certain things, he directed them. They asked
3 him questions and he answered them. I mean, he did what I
4 would think you would expect him to do.

5 And then he's been in the jails -- Warren,
6 Washington, Rensselaer -- and you know the system certainly
7 better than I do, they move them around depending on when a
8 bed is available, for two-and-a-half years. And he didn't
9 just sit in his cell during that period of time. He created
10 Bible study classes in both Warren and Rensselaer County
11 when none existed. I received a letter late, a day or two
12 ago, from someone in the outside community that is involved
13 in providing that guidance to inmates and they said he went
14 beyond what anyone in their group has ever seen. So he
15 actually created those two programs, and I guess if we
16 wanted someone to do something when they're sitting and
17 waiting, that would be what we would want them to do. He
18 certainly put his mind to it and accomplished it. They even
19 asked him to teach a class to the inmates there in
20 industrial automation, so that's what he did, you know, he
21 taught so they could go out and better themselves later.
22 And I guess he also was a tutor for a large number of
23 inmates in all the locations in math, he was asked by the
24 administration can you help these guys, tutor them in math,
25 give them skills to go out and do that. No one forced him

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1 to do that, I certainly didn't tell him to do that. He did
2 it on his own, of his own volition. He even -- and I think
3 he may discuss this, but he even tried to start to rough out
4 a business plan so when he got out or gets out he can
5 resurrect what he had in place, which obviously was a very
6 successful business and business career, so that given the
7 opportunity, he can go back and try and make amends, both
8 with his family and to the community. So I think that
9 speaks very highly. So when you're determining what the
10 appropriate sentence would be, I think those characteristics
11 here are very, very important.

12 I view, when I look at this, and I've had a long
13 time to look at it and I've read all this material, I have
14 listened to tapes, both wiretap, consensual tape of
15 meetings, I view Eric's role -- and I believe it's true --
16 as minor. And you can see right from the beginning, after
17 he realized that he had gotten himself in a fix when he went
18 to that diner, and I know and we've talked about this, he
19 said it was the worst mistake of his life going, he should
20 have never gone, but if you lay out what happened, you can
21 see the progression and the mistake.

22 In the summer of 2012, Crawford, who has a
23 reputation of not being very sophisticated, you probably
24 established that at trial, but is very persuasive. He comes
25 to Eric. They don't socialize, they know each other because

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1 Eric is a general contractor who works at GE, that's where
2 they cross, so they don't socialize, their families don't
3 know each other, but Crawford pitches him, saying I have an
4 idea to create a system using radiation to radiate medical
5 waste and it can be global and brought from place to place,
6 hospital to hospital. It's a commercial venture that I
7 think, you know, could be patented to make money. So he
8 gets Eric's interest that way, and it remains so until the
9 fall of 2012, when Crawford then starts to talk about using
10 the device -- you know, we've had a lot of discussions about
11 this term, Muslim and then Muslim terrorist cells. We asked
12 it be put in the plea agreement and the Government said no,
13 we are not gonna do that because that's been our position
14 from the beginning, but he pitches it in a way to sell it to
15 someone like Eric, saying, look, this is a device that can
16 be used against Muslim terrorist cells and, you know, I
17 think it's viable, I think you can do it. Now Eric is
18 looking at him thinking this doesn't make any sense, I don't
19 think this is viable, it's not his area of expertise, but
20 just sounded like a crazy story. Don't forget that we know
21 that Crawford pitched this device right to a Jewish
22 synagogue, or tried to, and tried to pitch the device to
23 another Jewish organization. I'm sure Crawford didn't go to
24 them and say you know what, I've got a device that can be
25 used to kill innocent people, all right, and I want you to

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1 help fund that for me. Does anyone -- do they think that's
2 what Crawford was gonna do? Of course not. He's smarter
3 than that, in the sense that that's not gonna work with
4 people. He's going to them saying here's this device that
5 might be able to be used against terrorists and, you know,
6 enemies against Israel and Jews, which I assume means
7 terrorists, all right, and I think that's a fair assumption.

8 He also tries to pitch it to United States
9 Congressman Chris Gibson, I don't know the details of that,
10 but I did see it in some of the materials provided, and I'm
11 certain he wasn't gonna pitch it to Congressman Gibson
12 saying I am gonna create a device we can use on
13 undesirables. I think that's the way the Eric we know got
14 involved and I think all the discovery that I looked at that
15 I've been provided, the tapes, the written material, the
16 videos, the wiretaps, not once is there any reference
17 involving Eric, with Eric as part of that conversation,
18 about targets being just Muslims or people that are
19 undesirable or the President or the Governor or people that
20 Crawford didn't like. Not one. Not one. They've never
21 produced it because it doesn't exist. So why? I mean
22 because they, and specifically Crawford, he doesn't want
23 Eric to be involved in that conversation at all because he
24 doesn't want him to know that, all right, he's kept totally
25 out of that. And, I mean, the absence of any of that

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1 material proves that. If he truly was so involved and that
2 was his intent here, to do this, to create -- help create a
3 weapon to hurt innocent people, why didn't they involve him
4 in those discussions? Why isn't there tape recordings about
5 conversations regarding that? Even at the diner, I read the
6 transcript, I'm sure the Court has, I don't see discussions
7 like that as to who the target is gonna be. So I think to
8 say that that was his intent and his knowledge and he knew
9 that is not true and I think it's unfair.

10 Going to the diner, we said that, Eric said that
11 in his presentence report, I think he is gonna say that to
12 you today, you know he's goin' there thinking all right,
13 Crawford is crazy, this is crazy, but I'm gonna go, I'm
14 gonna take a look at these guys, just out of curiosity, I
15 don't believe the device is viable. And he gets there and,
16 unlike Crawford, who, to him, is crazy but not dangerous,
17 the two investors seem deadly serious and sophisticated and
18 he realizes at this point that he has made a major mistake
19 because now he has been brought in, he's made aware of their
20 plan. For him to show anything but "I'm okay with it and
21 I'm involved with it" means what? His thought process,
22 they're gonna do bad things certainly to me and my family if
23 they think I'm not gonna be involved and I'm gonna go to the
24 authorities and do those things. Is not going to the
25 authorities at that point in time, was that a mistake? Huge

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1 mistake. Does he wish he had done it, saying look it, these
2 guys are crazy and I got myself into this guy goin' to this
3 meeting but, ya know, this is what's goin' on? Of course he
4 should. Sometimes though I think as human beings we get
5 ourselves into situations and you get overwhelmed and you
6 don't think like you should.

7 And so Eric Feight is thinking all right, they
8 know who I am, I'm gonna make 'em believe certainly that I'm
9 in with the cause, and I want to try to extricate myself.
10 And he does that, he tries to do that, probably in the wrong
11 way, obviously the easier way was to go to the FBI or the
12 police, but by putting him off, right, fobbing them off, not
13 answering their texts, not answering their phone calls,
14 making up excuses, work, I'm sick. I mean these are the
15 things he was telling them. I've been sick with the flu,
16 work is overwhelming, I'm just slammed with work, I just
17 can't get to it. I mean is that what a zealot, is that what
18 someone who says I want this to happen, I want innocent
19 people to be exposed to this device, is that what they do?
20 All right. Of course not. But if you don't think of it in
21 those terms, it seems like he gave them the device. But if
22 you look at what he did, I mean December, January, February,
23 April, May, right, kept putting them off. There were times
24 when they would try to e-mail him or text him, we want to
25 meet with you to discuss the progress, he refused to meet

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1 with them. Crawford tried to get him to meet with them to
2 demonstrate the two radios that were put together.

3 Absolutely refused to do that, I'm not gonna do that. And
4 so you have this tug and pull.

5 And, of course, Crawford is smart at one point
6 'cause he's frustrated, said these guys have affiliations,
7 they're affiliated with the Ku Klux Klan -- we know there
8 was discussion about that -- and they're not to be messed
9 with, so get the device done. And even then he has them go
10 out to get lights for a device that already has lights. The
11 radios, they already have lights, total waste of time. He
12 has them get parts that are never used, all right. He gives
13 them the incorrect numbers, parts that are lacking numbers,
14 hoping that they're just gonna go away. But they're
15 persistent with respect to the device.

16 To emphasize, I guess, it's hard because it's his
17 thought process, but to demonstrate that he actually was in
18 fear, when you look at the tape, he spoke with one of the
19 detectives in the task force, Detective Nafey, and
20 afterwards, when they're done, Eric says to Detective Nafey,
21 "Would you please give your cellphone number to Connie and
22 let them know to call you or 911 if these guys or someone
23 associated with them come to the house?" And these guys,
24 meaning the investors who we thought -- now he knows -- have
25 all kinds of affiliations that aren't so nice, because he's

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1 afraid, and he says, "I'm afraid. I'm arrested, they're
2 gonna think I'm cooperating against them and they're gonna
3 reach out and try to harm my family." So Nafey gives him
4 the cell number, Connie gets Nafey's cell number, they warn
5 her.

6 Then I think there is some discussion between the
7 agents, an hour or two goes by, and they say, look, the
8 family is gonna be upset, they're in fear. They then tell
9 him those two investors were actually undercover agents so
10 there is no fear to have. But why would he do that if he
11 didn't fear them? You know, to me, that's direct evidence
12 of what was in his mind and I think it corroborates what I'm
13 saying. It's part of the evidence in the case.

14 The Government, in its response, I think, to
15 Crawford's omnibus motion, talked about, I think there's
16 some dispute about without the radio the device wasn't gonna
17 be operative and the plan couldn't go forward. Well, they
18 specifically say in their response it was -- the device
19 itself, operating it remotely was not necessary for the
20 function of it and wasn't necessary for the completion of
21 the plan. And what Eric delivered to them certainly wasn't
22 gonna assist their plan in any way, and Eric will talk about
23 that in more detail, but I can address that also. (Pause.)

24 So this is how I understand it: The two radios
25 are purchased from RadioShack and I guess what happens, what

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1 Eric did was, and it's a very simple thing to do, he gets
2 radio one to communicate with radio two and that's what ya
3 do. And so it wasn't integrated to the device. And you
4 know, the Government said he was shown a manual, but I
5 believe the truth is they were shown briefly a brochure, all
6 right, not one that had schematics that you could say, oh,
7 this is the type of device, I've got all the intricate
8 workings of this device, therefore, I can design a radio
9 device that can be integrated to this particular X-ray
10 machine and operate it. Because, I mean, that's the whole
11 idea. Well, he knows that can't be done unless you have all
12 that information and unless you integrate the receiving
13 radio to the machine. The X-ray device itself, I think it
14 seems pretty clear, was not designed to be remotely
15 controlled, at least the one that they were proffering as,
16 you know, the one that was gonna be used. So it wasn't like
17 you could call up the manufacturer and say, oh, can you send
18 us the remote for this? So anyone having to operate it
19 remotely would have to integrate the two radios, all right,
20 in their simplest form, into the device. And that would be
21 quite complicated and you would have to know to get the
22 correct radios and frequency involved 'cause you'd have to
23 know all that about the machine. And when he delivers that
24 radio and says -- those radios and says I'm done, I'm not
25 getting involved, I'm out, and I think you may have heard

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1 some of that in a tape, I think Crawford says to 'em
2 Feight's out, he's done, he's out, you know that was his
3 finally I gave 'em what they think I agreed to give 'em,
4 it's not gonna help them, but at least I can say I did it,
5 leave me alone, I'm out. And I know that's not the right
6 thing to do. I mean, if you wanted to do a renunciation as
7 a full defense, you would have to go and say to the folks,
8 the law enforcement folks, this is what they're doing. And
9 he didn't do that. You know, I know he beats himself up
10 about that every day. Just an example.

11 And when you saw the video of the warehouse where
12 Crawford was and they have the machine, I think Crawford
13 expresses to the agents that he didn't want to turn it on,
14 you know, because he's too close to it, he's afraid of it.
15 Well, if they had the device they say they were given,
16 right, that Eric provided to them, just hook it up, hook up
17 and remotely control it, they could have done it. But that
18 was not gonna happen and I think everyone knows there was no
19 way that was gonna happen. Those two simple radios and
20 their relay system was never designed nor integrated into
21 the machine itself, so Crawford couldn't do that, nor could
22 the agents, nor could anyone else. And so when we talk
23 about what he did and what he tried to do, I believe that
24 the evidence is pretty strong here that what he gave them
25 then was useless and they knew that, and he'll probably

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1 describe that much better than I can. They said that, you
2 know, I know Mr. Green said that Eric gave Crawford
3 information on how to hook up the machine, the two radios to
4 the X-ray machine. That -- those instructions were totally
5 useless, you would have to have the panels, the schematics,
6 the inner workings of the machines to know how to do that.
7 That was just to placate them and placate Crawford and, in
8 fact, Crawford leaves the material that Eric gave him, he
9 just leaves it, forgets it, whatever, and Eric has it and
10 doesn't say to him or call him and say, hey, you left the
11 instructions that you wanted from me, here they are. Eric
12 puts 'em in a bag and leaves 'em at his house and he tells
13 the agents, he says I wrote this stuff out, he left it, he
14 never took it and it's still there.

15 That doesn't really sound like someone that wants
16 to help them integrate the system and get the system up and
17 running. Certainly, if that was the case, realistically he
18 would have gone there and done it for them or, at the very
19 least, tell them I need all the schematics, I have got to
20 look at the thing and be able to design the thing, otherwise
21 you have two radios that can't communicate to each other.

22 I know I've been long and I apologize, but it's
23 been two-and-a-half years and it's a 78-page presentence
24 report. And you're right, I agree, the case is crazy. And
25 I don't say that to diminish -- it's a serious case, there's

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1 no question, but for this person that never entertained
2 hurting anyone his entire life and who exhibited that the
3 way he lived and the way he talked and the way he taught, to
4 sentence him to 15 years when he tried to get himself out,
5 that he did everything he could not to help them, and, in
6 fact, what he did is give them something that couldn't help
7 them, that wouldn't help them, I think that 15 years is much
8 too long and I hope the Court feels that way. Thank you.

9 THE COURT: Thank you. Mr. Feight, you have the
10 last word. You're not obligated to speak, but you have
11 every right to speak.

12 THE DEFENDANT: Your Honor, thank you for
13 providing me the opportunity to speak on my own behalf.

14 In the early '80s, shortly after I left college, I
15 went to work for a small, family-owned bakery in
16 Schenectady. From that point, until my arrest in 2013, I
17 put in a lot of long, hard work to build a successful career
18 as a control systems engineer, ultimately opening my own
19 business that I had employed three people with.

20 More important than my career has been my family.
21 My wife and I have been married for 32 years and, to this
22 day, she's still the love of my life. We've raised three
23 beautiful, successful daughters that I can't even put into
24 words how much I love them, how much they mean to me.
25 Through volunteer work that I've done, through the school,

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1 through the Elks lodge, other community organizations, I've
2 tried to do my best to give back to my community, while at
3 the same time teaching my daughters a strong work ethic and
4 a sense of service to others. I think that's been reflected
5 in the letters that they've written, they really touched my
6 heart when I read what my daughters wrote about me.

7 Until my arrest in 2012 -- 2013, I had -- my worst
8 offense has been a traffic ticket. I've never owned a
9 firearm or a weapon of any kind. I've never been associated
10 with, a member of, or supported any type of militia or any
11 type of organization that promotes violence or hatred of any
12 kind at all.

13 I was initially approached by Crawford asking if I
14 would be interested in creating a remote control system for
15 a group of investors who had developed a system for
16 sterilizing medical waste. This was gonna be mobile and
17 travel from hospital to hospital. He said he couldn't give
18 me a lot of details because they were working on obtaining
19 the patent that they hadn't received. I've never -- had
20 known Crawford at that point for several years just through
21 a work association, he was a maintenance worker at GE in
22 Schenectady where I, as a subcontractor, had done work on a
23 semi-regular basis. He worked on a lot of the same machines
24 that I did controls on. That's how we knew each other and
25 would see each other once in awhile.

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1 The company that I had was in the business of
2 designing controls. This seemed like a good business
3 opportunity, so I told him that I would be interested, and
4 we talked about this from time to time, ya know, over the
5 next few weeks. Then a long period of time went by, I
6 really didn't hear anything back from him about it. I
7 figured that, you know, this, like a lot of these
8 opportunities, had just died on the vine, so I didn't think
9 anything more of it.

10 Crawford approached me again in the fall of 2012
11 to let me know that the project was still on and if I was
12 still interested, which for the medical device, yes, I was.
13 And then, over the next several weeks, he began to, a little
14 bit at a time, reveal to me what he claimed to be the true
15 nature of this project, that I've come to -- was closer to
16 the truth, but, as I've come to learn since then, was still
17 a lie. He told me that the mobile device was gonna be used
18 against terror cells that were operating within the United
19 States.

20 I tried pointing out to him that just from a
21 common sense standpoint this made no sense at all. He told
22 me that this is a technology that had been around for over a
23 hundred years and I said that, well, if it's been around for
24 that long, why hasn't anybody, specifically terrorists,
25 thought of using it in this manner? And the other point

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1 that I made to him was that, ya know, if a device like this
2 can produce harmful levels of radiation, then it certainly
3 wouldn't be available on a commercial basis to be used in
4 and around the general public. But he remained convinced
5 that this idea was plausible, that he had the ability to
6 make it work, and that he was the only one, in over a
7 hundred years, to ever have thought to use it in this
8 manner. And although fighting back against terrorists
9 didn't seem like a bad idea, I certainly thought that this
10 was a farfetched idea that certainly seemed impossible.

11 As I continued to work on projects at GE during
12 that time, there was a lot of work going on there that
13 involved my company, he continued to press me every time he
14 saw me for assistance on this. He finally convinced me to
15 meet with the other people that were involved in this, and I
16 thought, okay, these are just gonna be more people like
17 Crawford, you're crazy, and out of curiosity, to be honest
18 you, looking back on it I'm not even sure what motivated me
19 to go entertain these people, but he convinced me to go to
20 the meeting and I thought it was just gonna be more talk
21 about a crazy idea that they had no ability to put together
22 and it ultimately couldn't work in the first place.

23 Going to that meeting was the worst mistake I've
24 ever made, it's one that I'll regret for the rest of my
25 life. The two people that I met with were not at all what I

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1 thought they were gonna be; they were deadly serious, they
2 presented themselves as people who were committed to this
3 idea, and I quickly became aware that I placed my family and
4 myself in quite a bit of danger.

5 My fear for retaliation against my family is what
6 kept me from going to the authorities right away. I realize
7 now that was a huge mistake. They talked at that meeting
8 about several others who were involved in the project, so I
9 now knew that it was more than just the people that I was
10 seeing there. Believing that this was an idea that couldn't
11 possibly work, I felt that the easiest way to get myself out
12 of this was to just ignore them and the whole thing would be
13 forgotten. This proved not to be the case. I tried my best
14 to ignore e-mails, phone calls and text messages. Both the
15 undercover agents and Crawford continued to press me.
16 Crawford finally told me that my unresponsiveness was making
17 everyone nervous and, in his words, these aren't the kind of
18 people you mess around with.

19 I spent the next six months delaying the
20 construction of something that should have taken only a week
21 to do, and that was discussed in that meeting in Scotia. In
22 addition to not returning phone calls, e-mails, text
23 messages, I made up excuses about parts that were missing
24 that weren't missing, I requested additional parts that
25 weren't needed, like lights, foregrips. Had I actually

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1 wanted to be part of this and was, ya know, part of the
2 cause and wanted to do this, I would have simply, through my
3 own business, ordered all of these parts and had this done,
4 tested and delivered by the end of November. It's
5 inconceivable that someone with 25 years of automation
6 experience would take six months to build somethin' that has
7 fewer than a dozen parts.

8 At the November meeting, it was determined that
9 supplying the remote control was only part of what needed to
10 be done. The more important part was to make modifications
11 to the control panel of the X-ray device so that the remote
12 control system could work with it. Otherwise, the remote
13 control would be useless. They stated that they didn't have
14 anyone else that had the capabilities to do that. The fact
15 that I refused to do that more critical part, the important
16 part of what they asked me, was brought out in Crawford's
17 trial.

18 The remote that I finally supplied to them
19 after months of delay had no way of being directly connected
20 to the X-ray device. I knew that in order to satisfy them,
21 get them off my backs, I had to provide something that
22 would show remote control capabilities. In order to make
23 this system actually work, one of the two radios that
24 Mr. Moschetti talked about would have had to have been
25 mounted in the control panel for the device and integrated

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1 with that control circuitry. Instead of doing this, what I
2 did was I asked for an additional enclosure and more parts,
3 and produced a system that could only turn on and off a
4 simple 120-volt relay. This is more proof that this system
5 was never intended to work with the X-ray device. It was
6 only meant to turn on a simple 120-volt device, like a
7 light, when, in fact, at the meeting in November, they had
8 discussed the fact that this X-ray device was going to be
9 powered by 220 volts.

10 They never gave me any technical documentation at
11 all on the device. The information that I was shown at the
12 diner was just a brochure, it had some pictures of an old
13 control panel, an old style control panel, that was it. I
14 looked at it briefly and gave it back. I'm not even sure
15 what we looked at was ultimately what Crawford picked out to
16 use. I wasn't part of that, so I don't really know.

17 The concept here is similar to a universal TV
18 remote. I can get a universal remote from RadioShack, I can
19 program it to operate my TV set to prove to you that it
20 works, but it's not gonna work with your TV unless I know
21 the details about your TV to program it to work with it.
22 And even more important than that, if your TV doesn't have
23 remote control capabilities, like the case with the X-ray
24 device, unless someone makes extensive modifications to the
25 circuitry of that device, no remote is gonna work with it.

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1 I was never involved with or had any knowledge of
2 any other part of this operation other than just the remote
3 control device, that was all the discussions that Crawford
4 had with me. Potential targets were never discussed with
5 me, other than just the generic approach that it was
6 supposed to be used against terror cells operating within
7 the United States. The only other detail that he shared
8 with me was that he had approached a couple of Jewish
9 organizations who were interested in helping with the
10 funding of this plan. And this, I have now come to learn,
11 like much of everything else he told me, was not quite true.
12 Even during the meeting in November, both Crawford and the
13 undercover agents were very careful to not reveal to me any
14 specific details of this plan. The discussions were all
15 generic, you know, like a lot of other people, political
16 topics of the day, and no, no other details.

17 Having said all this, I still accept full
18 responsibility for all of my actions and my decisions. I
19 should have never gone to that meeting in Scotia, I should
20 have never given these people any information or assistance
21 of any kind. I should have gone directly to the authorities
22 as soon as I knew what Crawford's plans were. I was wrong,
23 terribly wrong for what I did and what I didn't do. I will
24 now have to live with and regret my decisions for the rest
25 of my life. My actions that were intended to protect my

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1 family have now harmed the ones that I love the most. The
2 life that my wife and I have spent over 30 years of hard
3 work to build has been devastated. Our home is in
4 foreclosure. My youngest daughter, who was an honor student
5 and president of the local chapter of an anti-bullying
6 organization, has now dropped out of school without
7 completing her high school education. The emotional harm
8 that I've done to my wife and my daughters can't even be put
9 into words. This, along with the pain and guilt that I feel
10 over what may have happened if I was wrong and Crawford
11 actually could have put together what I thought was
12 something that was impossible to do, is something that I'll
13 have to live with for the rest of my life.

14 Although the county jails don't provide much in
15 the lines of a positive environment, I've done my best to
16 spend the last two-and-a-half years as productively as
17 possible. I taught a class, although to a small audience,
18 on industrial automation, I taught a basic math class, I've
19 tutored several inmates who were working on their GED in
20 mathematics. I've conducted Bible studies in Rensselaer
21 County and in Warren County. Rensselaer County has more in
22 the line of Bible studies. Warren County had little to
23 none. It was a blessing to be able do that there. While I
24 was in Rensselaer, I had almost completed a business plan
25 and, unfortunately, I was unable to bring with me when I

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1 went to Warren County.

2 I'm very anxious to return home to my wife and to
3 my daughters to begin to repair the damage that I've caused.
4 With my experience and expertise as a control systems
5 engineer, I feel that if allowed to go home soon, I'll be
6 able to quickly re-enter the workforce and, once again,
7 contribute to my family and to my community. Thank you,
8 your Honor.

9 THE COURT: Thank you. There are always
10 consequences, none than you feel more poignantly than you do
11 now, but you're right, the harm you caused your family is
12 all at your doorstep. Ya can't lose sight of the fact that
13 you have admitted that you committed a serious crime and
14 that crime was intended to use a weapon of mass destruction
15 to kill people. And while you may now, in the view of
16 hindsight, believe that such a weapon was never available or
17 never able to accomplish that which Crawford sought to do,
18 the truth of the matter is it could have been, it could have
19 accomplished what it was he sought to accomplish. And while
20 you may bicker about whether it was terrorist Muslims you
21 had in mind or whether it was ordinary Muslims, the bottom
22 line is I heard your statement that was recorded on the wire
23 in Scotia, to the -- akin to I've sat and talked all my
24 life, it's now time for me to do somethin'. You understood
25 what it was you were doin'. You may not have appreciated

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1 that it could have accomplished what it was, but you
2 appreciated what it was you were doin'. That was part of
3 the agreement that you entered and it is something that you
4 intended to do, as you have admitted to me with your plea.

5 So you can't sit here in hindsight analysis and
6 say, well, it was never gonna happen. It could have
7 happened. And had it happened, you would have played an
8 instrumental role in its happening, and the only reason it
9 wasn't gonna happen is because the people you were dealing
10 with was not who you thought they were. Had they been of
11 that caliber and of that character, who knows who would have
12 been harmed by this machine. It's all bizarre, as I said at
13 the outset. It's bizarre that somebody of your background,
14 your intelligence and your life's experiences, all of which
15 I accept, would be listening to Crawford's nonsense and buy
16 into this, where there was a possibility of serious, serious
17 consequences.

18 And there's a penalty to pay for that. That is
19 serious conduct and there is a penalty to pay for it. I
20 accept the fact that at some point in this you realized
21 you'd bitten off more than you wanted to chew and you were
22 tryin' to distance yourself from it, I accept that. That's
23 the way in which I viewed the evidence that I heard at the
24 time of the trial. That's why I asked the Government to
25 address the issues I asked the Government to address because

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1 I've got to place this all in some perspective, in some
2 balance.

3 While I have found that the Guidelines are
4 correctly scored, given the way in which I evaluate the law
5 that was the substance of the argument between the two
6 sides, it's not the resolution of the law that's the
7 resolution of this case. The question is: Is that, then,
8 the appropriate sentence in light of all the factors that I
9 have to consider, which is your background, the things
10 you've done in your life, the things you've done to commit
11 this crime, the seriousness of the crime and to provide some
12 balance to that.

13 That's why I suggested at the outset that while
14 the Guidelines are correctly scored, and this is 360 months
15 to life, that's far too harsh a sentence, in light of my
16 evaluation of those factors. Instead, I believe the
17 advisory Guideline range without that enhancement is the
18 right range, as I evaluate those factors, including the
19 seriousness of the crime, the public harm that would have
20 been committed had it gone to fruition and all of those
21 other factors, including your background and your history.
22 And, therefore, to me, an appropriate range is 97 to
23 121 months, and I impose a sentence of 97 months.

24 I impose a term of supervised release of three
25 years, under the general conditions that have been adopted

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1 by the district, incorporating the special condition number
2 one that I've supplied in writing.

3 I impose the special assessment of \$100, which is
4 due and payable immediately.

5 You've consented to the entry of forfeiture and I
6 order that, consistent with the preliminary order of
7 forfeiture.

8 I impose no fines that, in light of your family
9 situation and otherwise, would just cause additional
10 hardship to your family. In light of my evaluation of the
11 presentence report, no such fine or other costs are
12 appropriate.

13 You have waived your right to appeal any sentence
14 of 180 months or less; this is less and, therefore, you've
15 waived your rights in that regard, but if you have any
16 questions, you should discuss them with Mr. Moschetti, I'm
17 sure he would explain that to you.

18 Anything further on the part of the Government?

19 MR. GREEN: Not at this time, your Honor.

20 THE COURT: Government wish to impose an objection
21 to my variance?

22 MR. GREEN: We --

23 THE COURT: I want to give you the opportunity to
24 preserve the record.

25 MR. GREEN: Yes, we do.

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THE COURT: All right. Mr. Moschetti, anything further on the part of the defendant?

3 MR. MOSCHETTI: No, thank you, your Honor.

4 THE COURT: All right. I wish you well.

5 (This matter adjourned at 10:20 AM.)

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**THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY**

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1 CERTIFICATION OF OFFICIAL REPORTER

2

3

4 I, THERESA J. CASAL, RPR, CRR, CSR, Official
5 Realtime Court Reporter, in and for the United States
6 District Court for the Northern District of New York, do
7 hereby certify that pursuant to Section 753, Title 28,
8 United States Code, that the foregoing is a true and correct
9 transcript of the stenographically reported proceedings held
10 in the above-entitled matter and that the transcript page
11 format is in conformance with the regulations of the
12 Judicial Conference of the United States.

13

14

Dated this 20th day of January, 2016.

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/s/ THERESA J. CASAL

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THERESA J. CASAL, RPR, CRR, CSR

FEDERAL OFFICIAL COURT REPORTER

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**THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY**